

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIFFANY RECINOS,

Plaintiff,

v.

CHILD PROTECTIVE SERVICES,
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, MARUEEN
BARTLETT, and TRESA MOREAU,

CASE NO. 3:23-cv-5581 MJP

ORDER REVOKING IN FORMA
PAUPERIS STATUS

This matter comes before the Court on referral from the Ninth Circuit Court of Appeals for the limited purpose of determining whether in forma pauperis (“IFP”) status should continue for the sake of Plaintiff’s appeal or whether the appeal is frivolous or taken in bad faith. (Dkt. No. 50.) The Court finds that Plaintiff’s appeal to the Ninth Circuit is frivolous and revokes her IFP status.

A litigant who cannot afford the expense of an appeal may move for leave to proceed IFP. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). But “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. §

1 1915(a)(3); Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002). A “good faith” appeal
2 must seek review of at least one “non-frivolous” issue or claim. Id. An issue is “frivolous” where
3 it “lacks an arguable basis either in law or in fact.” Neitze v. Williams, 490 U.S. 319, 325 (1989).
4 Legally frivolous claims are those “based on an indisputably meritless legal theory,” such as
5 claims against defendants who are immune from suit or for infringement of a legal interest that
6 clearly does not exist. Id. at 327. Factually frivolous claims are those premised on “clearly
7 baseless” factual contentions, such as claims “describing fantastic or delusional scenarios.” Id. at
8 327-28.

9 Plaintiff has not shown she brought this appeal in “good faith” because she fails to seek
10 review of at least one “non-frivolous” issue or claim. Hooker, 302 F.3d 1092. This Court sua
11 sponte issued an Order dismissing Plaintiff’s complaint under 28 U.S.C. § 1915(e)(1) for failure
12 to state a claim for relief because the complaint was devoid of any factual allegations that would
13 give rise to relief. (Dkt. No. 16.) The Court gave Plaintiff thirty (30) days to file an amended
14 complaint. Plaintiff filed an amended complaint alleging new claims against a new defendant
15 that was completely unrelated to the initial complaint and similarly lacked any factual basis for
16 the claim. Plaintiff did not fix the defects in her initial complaint and the Court found the
17 amended complaint similarly consisted of conclusory allegations without any factual basis to
18 give rise to relief. (Dkt. No. 22.) The Court dismissed Plaintiff’s Complaint with prejudice
19 because it found the complaint could not be saved by further amendments. (Id.) Plaintiff now
20 wishes to appeal the Court’s Order dismissing her complaint. (Dkt. Nos. 42, 45, 48.) But
21 Plaintiff’s appeal is premised on the same baseless factual contentions as her complaint. Because
22 Plaintiff’s complaints were premised on meritless legal theories that had no factual basis, an
23 appeal of the Court’s dismissal of those complaints would fair no better.
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1 The Court has not found that “at least on issue or claim” Plaintiff wishes to appeal is
2 “non-frivolous,” Hooker, 302 F.3d at 1092, therefore, the Court certifies the proposed appeal is
3 not taken in good faith under 28 U.S.C. § 1915(a)(3). The Court revokes Plaintiff’s IFP status
4 pursuant to Fed. R. App. P. 24(a).

5 The clerk is ordered to provide copies of this order to Plaintiff and the Ninth Circuit
6 Court of Appeals.

7 Dated November 1, 2023.

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9 Marsha J. Pechman
10 United States Senior District Judge
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